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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/640,986	08/14/2003	Timothy J. Brennan	EP-7606	9218

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EXAMINER

TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/640,986

Applicant(s)

BRENNAN ET AL.

Examiner

Cephia D. Toomer

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 14-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This Office action is in response to the election of December 30, 2005 in which Group I, claims 1-13 were elected without traverse. The election/restriction is FINAL.

#### ***Specification***

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by FR 2181607.

FR teaches a fuel composition comprising an Fe-based product or solution, such as iron naphthenate, as an additive. The Fe is preferably added to the fuel in the form of a solution containing 1-10 wt % (10-100 g/l) in combination with a solvent having a flash point of greater than 65 C (149 F)(see abstract in its entirety).

Accordingly, FR teaching all the limitations of the claims anticipates the claims.

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4. Claims 1-4, 6-8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by WO8700193.

WO teaches an additive for diesel fuel comprising iron naphthenate and a high boiling solvent(see abstract; page 2, lines 3-21). The solvent is a polyaromatic solvent such as anthracene oil. Anthracene oil has a boiling point of 330-400 C and a flash point of 180 degrees (see page 2, lines 22-26). The iron naphthenate is present in the additive in an amount of up to 90 liters and in the fuel in amount up to 0.05 kg/ton fuel (see page 3, lines 18-28; page 4, lines 3-19; Examples 1-3).

Accordingly, WO '193 teaching all the limitations of the claims anticipates the claims.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR 2181607.

FR has been discussed above. FR fails to teach that the solvent is aromatic. However, no unobviousness is seen in this difference because the teaching of hydrocarbon solvents suggests that the solvent may be aromatic.

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FR fails to teach that the additive is adapted for diesel fuel. However, no unobviousness is seen in this difference because FR teaches that the additive of its invention is suitable for a liquid fuel and this teaching suggests diesel fuel.

7. Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR 2181607 in view of WO 0188362 and SOLVESSO 150.

FR has been discussed above. FR fails to teach the particulars regarding the solvent or that the solvent is aromatic. However, WO teaches that organic solvents such as aromatic hydrocarbons such as SOLVESSO products are used for incorporating metal compounds into bulk fuel (see page 29, lines 13-26). SOLVESSO 150 is an aromatic solvent that boils with the range of 183-207 C has a flash point of 66 C and a viscosity at 25 C of 1.21. See product data sheet.

It would have been obvious to one of ordinary skill in the art to select the claimed solvent because FR desires a hydrocarbon solvent, WO teaches that aromatic hydrocarbon solvents such as SOLVESSO are used to incorporate metal compounds into bulk fuel and SOLVESSO 150 meets these requirements.


SOLVESSO does not specifically teach the molecular weight of the solvent; however, it would be reasonable to expect that the solvent would meet this limitation because it possesses all of the other properties that the solvent of the present invention contains.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cepha D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cephia D. Toomer  
Primary Examiner  
Art Unit 1714

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